

STATE OF INDIANA     )  
                          ) SS: BEFORE THE ENVIRONMENTAL MANAGEMENT  
COUNTY OF MARION    ) BOARD OF THE STATE OF INDIANA

IN THE MATTER OF            )  
GARY DEVELOPMENT, INC.,    )  
                          )  
                  Petitioner,    )  
                          )  
v.                            )  
                          )  
THE ENVIRONMENTAL            )  
MANAGEMENT BOARD OF         )  
THE STATE OF INDIANA,        )  
                          )  
                  Respondent.    )

CAUSE NO. N-53

AUG 25 4 39 PM '82  
BY S. J. COLEMAN  
CLERK

PETITIONER'S FIRST SET OF INTERROGATORIES,  
REQUESTS FOR ADMISSIONS, AND REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS

US EPA RECORDS CENTER REGION 5



415210

Pursuant to Rule 28(F) of the Indiana Rules of Trial Procedure, Petitioner, GARY DEVELOPMENT, INC., hereby propounds the following interrogatories, requests for admissions, and request for production of documents on Respondent. The obligations imposed upon Respondent by Rules 26, 33, 34, 36 and 37 of the Indiana Rules of Trial Procedure are incorporated by reference herein. Petitioner further requests that Respondent respond to these interrogatories and requests for admissions, and produce the documents requested herein, on or before September 7, 1982 for the reasons set forth in Petitioner's Motion to Shorten Time for Respondent to Reply to Petitioner's Interrogatories, Requests for Admissions, and Requests for Production of Documents, or in the Alternative, Motion for Continuance filed this same day. In answering the interrogatories and requests for admissions, please reproduce the interrogatory and request in full prior to responding. If you are unable to answer each interrogatory or request in full, answer to the extent possible and specify the reason for your inability to answer in full.

A. THE TYPE OF WASTE INVOLVED:

1. Admit or deny that the staff of the Indiana Environmental Management Board (hereafter referred to as "Respondent"

(h) If your response to any of the above requests for admissions is one of denial, explain in detail the reason for your denial including examples of the wastes which do not meet the above categorizations, and discuss the characteristics of each such waste.

(i) Produce all documents relating to your responses to the questions and requests for admissions contained in Interrogatory 1 and all subparts hereto.

B. THE STATE'S REASONS FOR DENYING GDL CONTINUED AUTHORITY TO ACCEPT INDUSTRIAL WASTES:

2. In Mathew Scherschel's, attorney for Respondent, letter to John M. Kyle III dated August 3, 1982, Mr. Scherschel said that one of the reasons GDL had been denied permission to continue accepting industrial wastes was:

The geologic setting of Petitioner's site is marginal. Therefore, the site construction techniques are very important, and were to "make up for" that marginal geologic setting. The site construction by Petitioner has been poor, as shown by noncompliance with the approved construction plans. Because of the techniques used, there is no "back up" for existing geology.

(a) Discuss all reasons for classifying the GDL site as geologically "marginal."

(b) Admit or deny that numerous landfills exist in this same general geologic setting and that such landfills legally and illegally accept industrial wastes.

(c) List all such landfills and their addresses referred to in your response to subparagraph (b) above; list all industrial wastes which the State has allowed, pursuant to 320 IAC 5-5-14, to be disposed of at such landfills; categorize each waste listed as either industrial or RCRA hazardous waste (as defined above) or both; describe each waste's hazardous characteristics; and discuss the current State action to limit or eliminate disposal of such waste in said landfills.

(d) Isn't true that certain construction techniques or other measures can be undertaken to compensate for marginal geology? Give examples of such construction techniques and measures and discuss in detail how these reasons would protect the environment and be incorporated at GDL.

(e) Discuss in detail all specific examples supporting the State's allegation that Petitioner had not complied with approved construction plans.

(f) Discuss at length the specific actions, techniques, or construction measures which you contend would render GDL a suitable site to dispose of industrial wastes, or at least some types of industrial wastes.

(g) Do you contend that GDL is unsuitable to accept any waste classified as "industrial." Discuss your response in detail.

(h) Produce all documents relating to your responses to Interrogatory 2 and all subparts thereto.

3. Mr. Scherschel's August 16th letter referred to in Interrogatory 2 above, gave the following additional reason for denying GDL the ability to receive industrial wastes:

There have [sic: has] been an unacceptable daily operation on-site, thereby not providing a good site for secure disposal of the subject hazardous wastes. The unacceptable daily operations include the non-provision of sufficient daily cover, as well as the manner in which Petitioner has handled and compacted solid waste. The use of fly ashes cover is not acceptable due to the permiability [sic: permeability] of that material.

(a) Discuss in detail all specific examples, giving dates and times, of such alleged "unacceptable daily operation on-site."

(b) Discuss in detail the allegation that insufficient daily cover has been used, referring to the date and time that such insufficient cover allegedly occurred, refer to the specific inspection reports supporting such allegation, and

(d) Admit or deny that no improper handling or disposal of hazardous waste was detected.

8. Referring to the State's October 20, 1981 inspection report:

(a) Admit or deny that on October 20, 1981, George Oliver and Bill Morgan inspected GDL and found the site acceptable;

(b) Admit or deny that George Oliver and Bill Morgan found:

(i) that the daily operation at GDL showed "much improvement;"

(ii) that the refuse was compacted;

(iii) that the working face was in a small area;

and

(iv) that there were no violations of applicable state regulations noted. [Answer each subpart separately.]

9. Referring to the State's inspection report of August 20, 1981:

(a) Explain the significance of the notation that "The J & L Steel Manifest # 7302-12750 - Tar Decanter Sludge and #7302-12685 - Central Waste Treatment Plant Sludge were received at the site on 8/19/81," in the absence of any further notation that either substance was improperly disposed of by GDL.

(b) What methodology was used to determine that the "sludge observed" originated from the Central Waste Treatment Plant Sludge Manifest # 7302-12685 and was in fact received by GDL on August 19, 1981?

(c) At the time of this inspection, was GDL closed for business, or was it continuing to accept waste for that day?

(d) What methodology was used to correlate the size of the working face with the amount of refuse received by Gary

12. Referring to the July 10, 1981 inspection report:

(a) What environmental concerns were raised by GDL's acceptance of shredder material?

(b) What adverse environmental impacts were anticipated by GDL's acceptance of such shredder material?

13. Admit or deny that on April 21, 1981, George Oliver inspected GDL and found (a) site to be acceptable; (b) that the refuse was worked well; and (c) cover was applied? [Answer each subpart separately.]

14. Regarding the State's April 21, 1981 inspection report, what is the significance of the notation that Union Carbide coal ash/slag was coming to the landfill?

15. Referring to the State's January 8, 1981 inspection report:

(a) What is the anticipated adverse environmental impact of the end of the working face being a cliff?

(b) Are there any weather-related factors which could have resulted in the operator being unable to maintain a 3:1 slope?

16. Referring to the State's November 14, 1980 inspection report:

(a) What specific areas were observed which did not have daily cover?

(b) Which two edges approximately four feet high needed to be worked onto a 3:1 slope?

(c) What is the anticipated adverse environmental impact of the Gary Landfill accepting aluminum dross?

(d) Is aluminum dross an "industrial waste" or a "RCRA hazardous waste," or both? Please give citations of authority as to the categorization of aluminum dross, and the regulation supporting this classification.

(a) What was the quantity of "hazardous waste" which was improperly disposed of, and for each waste, was the waste an industrial waste, a RCRA hazardous waste, or both?

(b) Was this waste subject to, or similar in nature to waste subject to, a Special Permission Letter issued by Indiana?

(c) What was the nature and amount of exposed refuse observed in the northeastern portion of the property?

(d) What is the quantity and type of oil which was being placed in the trench? Describe the anticipated adverse environmental impact of this practice?

23. Referring to the State's April 18, 1979 inspection report:

(a) Which sections of the clay wall were not completed?

(b) How close were these missing sections to the working areas of the landfill?

(c) Upon what date was the wall to be completed as per the State-approved plan?

24. Admit or deny that on November 30, 1978, Bruce Palin and Jim Hunt inspected GDL and found the site acceptable.

25. Admit or deny that on August 17, 1978, Bruce Palin inspected GDL and found the site acceptable.

26. Admit or deny that on June 20, 1978, Bruce Palin inspected GDL and found the site acceptable.

27. Referring to the State's June 20, 1978 inspection report:

(a) Doesn't the notation that the "U.S. Reduction dust was causing a tremendous dust problem" and that there was a "need to contact the industry about this" indicate that the

dust problem was caused by U.S. Reduction and not Gary Development? If not, discuss your response in detail.

(b) What were the results of the water quality tests which were requested to be sent to the Board?

28. Referring to the State's May 9, 1978 inspection report:

(a) What are the anticipated adverse environmental impacts of disposing of these particular oily wastes at GDL?

(b) What specific inadequacy was found with the daily cover?

29. Referring to the State's April 7, 1978 inspection report:

(a) Were any tests conducted upon the samples taken of the discharge?

(b) If so, produce the results of those tests.

30. Referring to the State's April 7, 1978 report, what methodology was employed by the Inspectors to ascertain that the alleged insufficiently covered materials were materials dumped at the site on a date previous to the date of inspection?

31. Referring to the State's March 15, 1978 inspection, could any of the ponded water on the site have been due to environmental factors, such as a spring melt or heavy rains, which are beyond the control of the operator? Discuss your answer in detail.

32. Other than the State's March 15, 1978 report, have any incidents of scavenging been detected by Inspectors at the site?

33. Admit or deny that prior to March 15, 1978, the operation of GDL was never deemed unacceptable by the State.

(e) In the past, have inspections revealed any improper dumping practices relating to the disposal of these wastes identified above? If so, discuss in detail the specific instances and problems, give the dates of the inspections, and produce all documents relating thereto.

(f) Discuss in detail the State's reasons for denying approval to Gary Landfill to accept each waste listed above in the future?

E. MISCELLANEOUS:

45. What specific corrective actions do you contend are necessary to place the landfill in compliance with the applicable state laws and regulations and to enable GDL to accept hazardous and/or industrial wastes?

46. Identify each person the State plans to call as a witness at the hearing of this matter, each person's address and telephone number (business or personal), and state in reasonable detail the anticipated testimony of each.

47. Produce all inspection reports of, and Special Permission Letters granted relating to, the following landfills:

- (a) the Wheeler Landfill;
- (b) the City of Gary Landfill;
- (c) the City of Munster Landfill; and
- (d) the J & D Landfill.

48. If any of the landfills listed in Interrogatory 47 above may lawfully accept industrial wastes, discuss in detail the reasons therefor, and the specific reasons for treating any of these landfills differently from GDL.

  
John M. Kyle III



Vic Indiano / smk  
Vic Indiano

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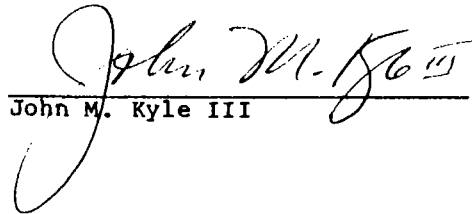
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing "Petitioner's First Set Of Interrogatories, Requests For Admissions, And Requests For The Production Of Documents" has been served on the Respondent by depositing a copy thereof in the United States First Class Mail, addressed to:

Mathew S. Scherschel, Deputy Attorney General  
Counsel for Environmental Management Board of  
the State of Indiana  
Room 219, State House  
Indianapolis, Indiana 46204;

and hand delivered to Ms. Brenda Rodeheffer, counsel for Respondent, and Mr. George Oliver of the Division of Land Pollution Control, as a courtesy.

This 25<sup>th</sup> day of August, 1982.

  
John M. Kyle III